

In subsection (e), the words “if appropriate” are omitted as surplusage.

REFERENCES IN TEXT

Sections 1005 and 1006 of title 10, referred to in subsecs. (d) and (e), were renumbered sections 12645 and 12646 of title 10, respectively, by Pub. L. 103-337, div. A, title XVI, §1662(h)(2), Oct. 5, 1994, 108 Stat. 2996.

AMENDMENTS

1994—Subsec. (c). Pub. L. 103-337, §1676(a)(3), substituted “12105, 12213(a), or 12214(a)” for “3259, 3352(a), 8259, or 8352(a)”.

1958—Subsec. (b)(1). Pub. L. 85-861, §33(c)(2), substituted “the Regular Army or the Army National Guard of the United States, or both” for “a regular or reserve component of the Army”.

Subsec. (b)(2). Pub. L. 85-861, §33(c)(2), substituted “the Regular Air Force or the Air National Guard of the United States, or both” for “a regular or reserve component of the Air Force”.

Subsecs. (d), (e). Pub. L. 85-861, §2(11), added subsecs. (d) and (e).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 1676(a)(3) of Pub. L. 103-337 effective Dec. 1, 1994, except as otherwise provided, and amendment by section 1630(2) of Pub. L. 103-337 effective Oct. 1, 1996, see section 1691 of Pub. L. 103-337, set out as an Effective Date note under section 10001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by section 33(c)(2) of Pub. L. 85-861 effective Aug. 10, 1956, see section 33(g) of Pub. L. 85-861, set out as a note under section 101 of Title 10, Armed Forces.

CROSS REFERENCES

Suspension of subsecs. (d) and (e) of this section, see section 111 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 111 of this title; title 10 sections 3820, 8368, 8820, 14907.

§ 324. Discharge of officers; termination of appointment

(a) An officer of the National Guard shall be discharged when—

- (1) he becomes 64 years of age; or
- (2) his Federal recognition is withdrawn.

The official who would be authorized to appoint him shall give him a discharge certificate.

(b) Subject to subsection (a), the appointment of an officer of the National Guard may be terminated or vacated as provided by the laws of the State or Territory of whose National Guard he is a member, or by the laws of Puerto Rico or the District of Columbia, if he is a member of its National Guard.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, §1234(b)(6), 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
324(a)	32:114 (less 1st sentence).	June 3, 1916, ch. 134, §77; restated June 15, 1933, ch. 87, §14; restated June 19, 1935, ch. 277, §4, 49 Stat. 391; July 9, 1952, ch. 608, §803 (11th par.), 66 Stat. 505.
324(b).	32:114 (1st sentence).	

In subsection (a), the words “shall be discharged” are substituted for the words “shall thereupon cease to be a member thereof” since an official is required to give the officer a discharge certificate. The words “becomes 64 years of age” are substituted for the words “upon reaching the age of sixty-four years”. The words “his Federal recognition is withdrawn” are substituted for the words “When Federal recognition is withdrawn * * * as provided in section 115 of this title”.

In subsection (b), the words “Subject to subsection (a)” are inserted for clarity. The words “as provided by the laws” are substituted for the words “in such manner as * * * shall provide by law”.

AMENDMENTS

1988—Subsec. (b). Pub. L. 100-456 struck out “, the Canal Zone,” after “Puerto Rico”.

CROSS REFERENCES

Army National Guard of United States and Air National Guard of United States, discharge of officers, see sections 3820 and 8820 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 3855, 8855.

§ 325. Relief from National Guard duty when ordered to active duty

(a) Each member of the Army National Guard of the United States or the Air National Guard of the United States who is ordered to active duty is relieved from duty in the National Guard of his State or Territory, or of Puerto Rico or the District of Columbia, as the case may be, from the effective date of his order to active duty until he is relieved from that duty.

(b) So far as practicable, members, organizations, and units of the Army National Guard of the United States or the Air National Guard of the United States ordered to active duty shall be returned to their National Guard status upon relief from that duty.

(Aug. 10, 1956, ch. 1041, 70A Stat. 607; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, §1234(b)(6), 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
325(a)	50:1120.	July 9, 1952, ch. 608, §§710, 712(b) (less last 17 words), 66 Stat. 503, 504.
325(b)	50:1122(b) (less last 17 words).	

In subsection (a), the words “in the service of the United States” are omitted as surplusage. The words “effective date of his order to active duty until he is relieved from that duty” are substituted for the words “active-duty date of the orders and for as long as they remain on active duty in the service of the United States”. 50:1120 (last sentence) is omitted as surplusage, since the persons involved are members of the Army or the Air Force.

In subsection (b), the words “upon relief from that duty” are substituted for the words “upon being relieved from active duty”. The words “their National Guard status” are substituted for the words “to the National Guard and Air National Guard in their respective States, Territories, and the District of Columbia”.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 struck out “, the Canal Zone,” after “Puerto Rico”.

CROSS REFERENCES

Active duty, see sections 12301 and 12401 of Title 10, Armed Forces.

Return of arms and equipment upon relief from Federal service, see section 706 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 706 of this title.

§ 326. Courts-martial of National Guard not in Federal service: composition, jurisdiction, and procedures

In the National Guard not in Federal service, there are general, special, and summary courts-martial constituted like similar courts of the Army and the Air Force. They have the jurisdiction and powers, except as to punishments, and shall follow the forms and procedures, provided for those courts.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
326	32:91.	June 3, 1916, ch. 134, § 102, 39 Stat. 208.

The words “not in Federal service” are substituted for the words “Except in organizations in the service of the United States”. The words “have the jurisdiction and powers” are substituted for the words “and have cognizance of the same subjects, and possess like powers”. The words “of three kinds, namely”, “provided for by the laws and regulations governing”, “proceedings of courts-martial of the National Guard”, and “modes of” are omitted as surplusage.

CROSS REFERENCES

Uniform Code of Military Justice—

Generally, see section 801 et seq. of Title 10, Armed Forces.

Composition of courts-martial, see sections 825 to 829 of Title 10.

Court-martial jurisdiction, see sections 816 to 820 of Title 10.

Pre-trial procedure, see sections 830 to 835 of Title 10.

Review of courts-martial, see sections 859 to 876a of Title 10.

Trial procedure, see sections 836 to 854 of Title 10.

§ 327. General courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, general courts-martial may be convened by the President or by the governor of a State or Territory or Puerto Rico or by the commanding general of the National Guard of the District of Columbia.

(b) A general court-martial may sentence to—

- (1) a fine of not more than \$200;
- (2) forfeiture of pay and allowances;
- (3) a reprimand;
- (4) dismissal or dishonorable discharge;
- (5) reduction of a noncommissioned officer to the ranks; or
- (6) any combination of these punishments.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608; Sept. 29, 1988, Pub. L. 100-456, div. A, title XII, § 1234(b)(4), 102 Stat. 2059.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
327(a)	32:92 (1st 46 words).	June 3, 1916, ch. 134, § 103,
327(b)	32:92 (less 1st 46 words).	39 Stat. 208.

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”.

In subsection (b), the words “A general court-martial may sentence to—” are substituted for the words “and such courts shall have the power to impose * * * to sentence”. The words “any combination of these punishments” are substituted for the words “or any two or more of such punishments may be combined in the sentences imposed by such courts”.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-456 substituted “Territory or Puerto Rico” for “Territory, Puerto Rico, or the Canal Zone,”.

CROSS REFERENCES

Uniform Code of Military Justice—

Generally, see section 801 et seq. of Title 10, Armed Forces.

Convening general courts-martial, see section 822 of Title 10.

Jurisdiction of general courts-martial, see section 818 of Title 10.

Sentences, generally, see sections 855 to 858a of Title 10.

§ 328. Special courts-martial of National Guard not in Federal service

(a) In the National Guard not in Federal service, the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where troops are on duty, or of a brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command, may convene special courts-martial. Special courts-martial may also be convened by superior authority.

(b) A special court-martial may not try a commissioned officer.

(c) A special court-martial has the same powers of punishment as a general court-martial, except that a fine imposed by a special court-martial may not be more than \$100 for a single offense.

(Aug. 10, 1956, ch. 1041, 70A Stat. 608.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
328(a)	32:93 (less last sentence).	June 3, 1916, ch. 134, § 104,
328(b)	32:93 (1st 32 words of last sentence).	39 Stat. 208.
328(c)	32:93 (last sentence, less 1st 32 words).	

In subsection (a), the words “Federal service” are substituted for the words “service of the United States”. The words “where troops are on duty” are inserted for clarity. The words “for his command” are omitted, since they cast doubt on the right of a court-martial to try others than members of the command of the appointing authority. The words “air base, auxiliary air base”, “wing, group”, and “detached squadron” are inserted to clarify the applicability of the revised section to Air Force organizations. The words “convene” and “convened” are substituted for the words “appoint” and “appointed” to conform to 32:92 and similar provisions of section 823 of title 10 (article 23 of the Uniform Code of Military Justice). The words “when by the latter deemed advisable” are omitted as surplusage.

In subsection (b), the positive authority of a special court-martial to try any person subject to military law is omitted as covered by section 326 of this title.

In subsection (c), the words “for a single offense” are inserted for clarity.